

MARVIN L. WINANS ACADEMY OF PERFORMING ARTS

January 23, 2004

Mr. Randy Hayward
Marvin L. Winans Academy of Performing Arts
7616 East Nevada
Detroit, MI 48234
Ph: (313) 365-5578 Fax: (313) 365-5684

Request for Waiver
Federal Communications Commission
Office of the Secretary
9300 East Hamilton Drive
Capital Heights MD 20743

C C Docket Nos. 02-6

Funding Year 6 (year 2003 - 2004)
Form 471 Application Number: 340426
Funding Request Number: 921049

Request for Waiver Regarding the use of the wrong 470 Application Number used for filing year 6 (2003 - 2004)

In filing Year 6 (2003-2004), Mr. Motley filed a new form 470 (469080000407490) and used that form number to file the 471-application number 34026. He should have used the form 470 number received from Year 5 (181540000331585) in place of filing a new form 470 for Year 6 (2003-2004).

By filing a new 470-form for Internet Access for funding year 6 (2003-2004), the SLD has denied our services for funding year 6, and has caused a great deal of confusion. When the PIA called Mr. Motley they informed him of the problem, but did not advise him of what needed to be done to correct the issue. Unfortunately, I'm not able to confirm the conversation between Mr. Motley and the PIA due to the fact that he currently is not employed by the Academy.

As an independent Charter School in the inner city, who is not affiliated at all with any other school district, we desperately need additional funding to provide our students with the proper tools to succeed in this challenging technical environment.

Attached for your review is a copy of the 471, the errors are circled, a copy of the SLD denial letter, Merit Attachment 03, the letter of intent from Merit and finally the purchase order agreement between the Academy and Merit Network. Please carefully review our situation, and overturn this decision.

Sincerely,

Mr. Randy Hayward
Principal, Winans Academy

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Ycae 6

Page 1 of 1

**Schools and Libraries Universal Service Program
Services Ordered and Certification Form 471
Application Display**

Block 1

Block 2 & 3

Block 4

Block 5

Block 6

471 Application No: 340426
Form Status: CERTIFIED - In Window
Out of Window Letter Date: Not applicable

Funding Year: 07/01/2003 - 06/30/2004 Cert. Postmark Date:
RAL Date: 01/21/2003

Block 5: Discount Funding Request(s)

FRN: 921049 FCDL Date: 05/01/2003	
11. Category of Service: Internet Access	(12) 470 Application Number: 469080000407490
13. SPIN: 143004331	14. Service Provider Name: Merit Network Inc.
15. Contract Number: NA	16. Billing Account Number: DED-GD/01/07/02A
(17) Allowable Contract Date: 01/17/2002	(18) Contract Award Date: 05/15/2001
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2005	
21. Attachment #: MERIT03	22. Block 4 Entity Number: 55217
23a. Monthly Charges: \$1,211.00	23b. Ineligible monthly amt.: \$ 00
23c. Eligible monthly amt.: \$1,211.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$14,532.00	
23f. Annual non-recurring (one-time) charges: \$0.00	23g. Ineligible non-recurring amt.: \$0.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$14,532.00	
23j. % discount (from Block 4): 80	
23k. Funding Commitment Request (23i x 23j): \$11,625.60	

Previous

Display Entire Application

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Line 12: Should be 181540000331585

Line 17: Should be 01/10/2001

Line 18: Should be 06/01/2001



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2003-2004

December 5, 2003

Tony Mottley
Marvin L. Winans Academy of Performing Arts
7616 East Nevada
Detroit, MI 48234

Re: Billed Entity Number. 55217
471 Application Number: 340426
Funding Request Number(s): 921049
Your Correspondence May 23, 2003
Received:

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number. 921049
Decision on Appeal: **Denied in full**
Explanation:

- In your appeal letter you stated that because you were not knowledgeable about the details of filling out the 470 Form, you did not use the correct form number. You allowed SLC to assign a Form 470 number (469080000407490) as opposed to the number assigned to you in FY 5 (181540000331585). You stated that the service requested was under a multiple year contract with Merit Network that ran from June 6, 2001 through June 30, 2005.
- Review of the documentation used during the initial review shows that you were contacted by PIA and informed of the problem with the date sequence. The reviewer informed you that the Contract Award Date ("CAD") of 5/15/01 was before the Allowable Contract Date of 10/22/02 of the Form 470 cited as establishing the bidding for the corresponding service. PIA's memo asked you to

verify that the CAD was correct and to provide documentation if a change needed to be made. You were also asked to verify if the referenced Form 470 was the establishing Form 470. You responded to the reviewer's request by confirming the CAD of 5/15/01 and verifying that Form 470 #469080000407490 was the establishing 470. Program rules do not allow for new information to be considered on appeal if the applicant has been given an opportunity to provide an informed response to the problem during the initial review period.

- You signed a contract for new services prior to the expiration of the 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. *See* 47 C.F.R. §§ 54.504 and 54.511(a) and (c). FCC rules further require that the Administrator send the applicant a confirmation when the Form 470 has been posted, and inform the applicant of the date after which the applicant may sign a contract with the vendor it selects. *See* 47 C.F.R. § 54.504(b)(4). These competitive bidding requirements help ensure that applicants receive the lowest pre-discount price from vendors. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order on Reconsideration*, 12 FCC Rcd 10095, 10098 ¶ 9 (1997). New services include tariff telecommunications services that are NOT subject to an existing, binding, written contract.
- The Item 21 attachments you provided in support of your Form 471 application or the documentation provided during review of your application showed that you signed a contract for new services prior to the end of the 28-day posting period. In your Receipt Notification Letter, SLD notified you that the earliest date upon which you could sign a contract or enter into an agreement (your Allowable Contract Date) was 10/22/02. You did not claim that this Form 471 related to a different Form 470 other than the Form 470 indicated above when responding to SLD's request for clarification during the initial review process. Consequently, SLD denies your appeal because your application did not comply with the competitive bidding requirement that your Form 470 be posted on the website for 28 days prior to signing a contract for services or entering into an agreement for new services.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference

Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

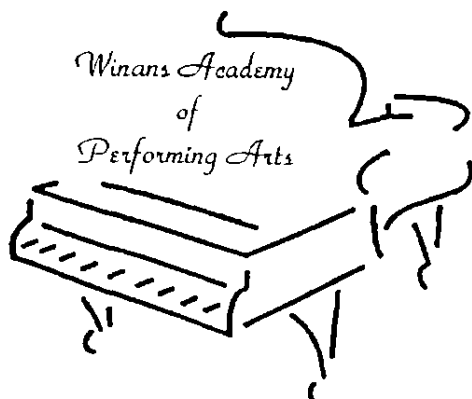
Schools and Libraries Division
Universal Service Administrative Company

MARVIN L WINANS SCHOOL
BEN 55217

ATTACHEMENT: MERIT03
APPLICATION: 340426

The Marvin L. Winans Academy of Performing Arts hereby enters into contract with the Merit Network, abiding by the proposal dated January 10, 2001. It is understood by both parties that Merit Network will provide T-1 Internet Access Services for three years starting July 1, 2001 thru June 30, 2005. According to the proposal the rate agreed upon is \$14,529.00 billed annually for the purpose of Schools and Libraries Universal Service.

T-1 Internet Service based on 3-year rate	
1.5 Mbs Bandwidth Annual Fee	\$9,840.00
Annual Circuit Fee	\$4,689.00
Total Annual Cost	\$14,529.00
Monthly Cost Breakdown	\$1,211.00



May 15, 2001

7616 E. Nevada
Detroit, MI 48234
(313) 365-5578
(313) 365-5684 - fax

Merit Network, Inc.
4251 Plymouth Rd, Suite 2000
Ann Arbor, Michigan 48105-2785


Re: Purchase Order

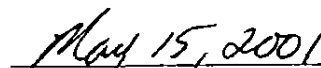
The Marvin L. Winans Academy of Performing Arts hereby enters into contract with Merit Network, abiding by the proposal dated January 10, 2001. It is understood by both parties that Merit Network will provide T-1 Internet Access Services for three years starting June 6, 2001 – June 30, 2005. According to the proposal the rate agreed upon is \$14,529.00 billed annually for the purpose of School and Libraries Universal Service.

T-1 Internet service based on 3-year rate:

1.5Mbs Bandwidth	\$9,840
Annual Circuit Fee	\$ 4,689
Total Annual Cost	\$14,529
Monthly cost Breakdown	\$1211

If you have any questions please contact Latecfah Walker (313) 873-7625.


Randy Hayward
Administrator


Date